

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANTHONY JEFFERSON,
Plaintiff,

vs.

No. 17-cv-03161-JTM

ARAMARK CORRECTIONAL
SERVICES, et al.,
Defendants.

ORDER TO SHOW CAUSE

Defendant Patricia Berry filed a Motion to Dismiss, or in the alternative, Motion for Summary Judgment and associated memorandum in support on September 21, 2018. (Dkts. 49, 50). The certificates of service on both documents indicate that copies of the motion to dismiss and memorandum in support were sent to plaintiff Anthony Jefferson at the Hutchinson Correctional Facility, his current address of record. D. Kan. Local Rule 6.1(d)(2) requires responses to motions to dismiss or motions for summary judgment to be filed and served within 21 days, regardless of the initial method of service. In this instance, plaintiff's response would have been due by October 12, 2018. Plaintiff has not yet filed a response and failed to file a timely request for an extension of time to respond.

A party who fails to file a responsive brief or memorandum within the time required by local rule 6.1(d) waives the right to later file such response absent a showing of excusable neglect. D. Kan. Local Rule 7.4(b). Further, if a response is not filed within the rule 6.1(d) time requirements, the court will consider and decide the pending motion as uncontested and will ordinarily grant the motion without further notice. *Id.* Plaintiff is therefore directed to show cause to Senior District Judge J. Thomas Marten, in writing,

on or before January 7, 2019, why defendant Berry's motion to dismiss (Dkt. 49) should not be granted as unopposed. Plaintiff shall further file any response to defendant Berry's motion to dismiss on or before January 7, 2019. If plaintiff fails to respond to this Order, or file a response to the motion as directed, the court will consider defendant Berry's motion to dismiss as unopposed and shall rule on the motion in accord with local rule 7.4(b). Plaintiff is cautioned that the court is not likely to grant any motion for extension of time to respond to this show cause order that is not supported by extraordinary circumstances justifying the requested extension.

IT IS SO ORDERED.

Dated this 19th day of December, 2018.

/s/J. Thomas Marten
THE HONORABLE J. THOMAS MARTEN
UNITED STATES DISTRICT COURT